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EXAMINER

CONLEY, SEAN EVERETT

ART UNIT	PAPER NUMBER
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1744

DATE MAILED: 11/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/648,123

Applicant(s)

SAMII, MORAD

Examiner

Sean E. Conley

Art Unit

1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) 11-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 18-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 August 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 8/25/03, 6/1/04.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of group I, claims 1-10 and 18-30 in the reply filed on September 29, 2006 is acknowledged. Claims 11-17 have been withdrawn from consideration for being directed to a non-elected invention.

Information Disclosure Statement

2. The information disclosure statement filed June 1, 2004 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

No copy was received for the following Foreign Patent Documents: EP 0831384 and WO 01/07093.

Drawings

3. The drawings are objected to because pages 1-3 of the drawings contain the labels "prior art" and it appears as though these drawings represent the applicant's claimed invention and not that of the prior art. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the

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figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-4 and 6-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Hempel (DE 19513293 A1).

Regarding claim 1, Hempel discloses an apparatus for delivering scent material (odiferous substance (114)), comprising: a carrier (paper band (100)) that is movable from a scent material receiving location (location of feed system (16,18)) to a scent delivery location (opening (110) in side of duct (106)); a scent material transfer device (feed system (16, 18)), associated with the scent material receiving location, that transfers the scent material to the carrier (100); and a scent material dispersal device (heater (112) and fan (108)), associated with scent delivery location, that causes at least some of the scent material to be released from the carrier (see figures 42-43; col. 9, line 16 to col. 10, line 16; English abstract).

Regarding claims 2 and 3, Hempel discloses that the carrier (band (100)) is made of paper material which absorbs an aromatic substance (see figures 42-43; col. 9, lines 17-35).

Regarding claim 4, Hempel discloses that the apparatus further comprises a supply reel (102), located upstream from the scent material transfer device (feed system (16, 18)), that stores unused portions of the elongate strip of carrier material (100); and a take-up reel (104), located downstream from the scent material dispersal device (heater (112)), that receives used portions of the elongate strip (100) of carrier material after the dispersal device has caused at least some the scent material to be released from the elongate strip of carrier material (see figures 42-43; col. 9, line 16 to col. 10, line 16; English abstract).

Regarding claim 6, Hempel discloses that the scent material transfer

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device (feed system (16, 18)) comprises a plurality of scent material transfer devices (16, 18) associated with respective portions of the scent receiving location (see figures 42-43; col. 9, line 16 to col. 10, line 16; English abstract).

Regarding claim 7, Hempel discloses that the scent material comprises a plurality of different scent materials, the apparatus further comprising: a plurality of scent material reservoirs (12, 14) respectively connected to the plurality of scent material transfer devices (16, 18) (see figures 42-43; col. 9, line 16 to col. 10, line 16; English abstract).

Regarding claim 8, Hempel discloses that the scent material transfer device sprays droplets of scent material onto the carrier (see figures 8a, 8b, 36, 42-43).

Regarding claim 9, Hempel discloses a fan (108) that drives air through opening (110) which is the scent delivery location (see figures 42-43; col. 9, line 16 to col. 10, line 16; English abstract).

* Note: A machine translation from www.freetranslations.com has been relied upon for translation of portions of the reference to Hempel, DE 19513293 A1.

5. Claims 1, 2, 4, 6-10, and 18-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Nardini (U.S. Patent No. 6,136,277).

Regarding claim 1, Nardini discloses an apparatus for delivering scent material (50), comprising: a carrier (tape (38)) that is movable from a scent material receiving location (area near scent dispensing port (44)) to a scent delivery location (area located after the dispensing port (44)); a scent material transfer device (dispensing port (44)),

associated with the scent material receiving location, that transfers the scent material to the carrier (tape (38)); and a scent material dispersal device (blower fan (26)), associated with scent delivery location, that causes at least some of the scent material to be released from the carrier (tape (38)) (see figures 1-4; see entire document, specifically col. 3, lines 29-62).

Regarding claims 2, Nardini discloses that the carrier (38) is made from absorbent cotton (see col. 3, lines 45-50).

Regarding claim 4, Nardini discloses that the carrier comprises an elongate strip of carrier material (absorbent cotton that forms tape (38)), the apparatus further comprising: a supply reel (40), located upstream from the scent material transfer device, that stores unused portions of the elongate strip of carrier material (38); and a take-up reel (42), located downstream from the scent material dispersal device (blower fan (26)), that receives used portions of the elongate strip of carrier material after the dispersal device has caused at least some the scent material to be released from the elongate strip of carrier material (see figures 1-4; see col. 3, line 30 to col. 4, line 10).

Regarding claim 6, Nardini discloses that the scent material transfer device comprises a plurality of scent material transfer devices (multiple ports (44)) associated with respective portions of the scent receiving location (see figure 3, see col. 3, line 45 to col. 4, line 10).

Regarding claim 7, Nardini discloses that the scent material comprises a plurality of different scent materials, the apparatus further comprising: a plurality of scent material reservoirs (42) respectively connected to the plurality

of scent material transfer devices (44) (see figure 3; col. 3, lines 53-62).

Regarding claim 8, Nardini discloses that the scent material transfer device (44) sprays droplets of scent material (50) onto the carrier (tape (38)) (see figure 4).

Regarding claim 9, Nardini discloses that the scent material dispersal device (blower fan (26)) drives air through the scent delivery location (see col. 3, line 63 to col. 4, line 3).

Regarding claim 10, Nardini discloses a housing (blower assembly (12)), in which the carrier, the scent material transfer device, and the scent material dispersal device are located, including an outlet (grate (16)); wherein the scent material dispersal device drives air through the scent delivery location and through the outlet (see col. 3, lines 30-45; see figure 1).

Regarding claims 18, Nardini discloses an apparatus for delivering scent material (50), comprising: a housing (12) defining a first storage location (at reel (40)), a receiving location (area near dispenser (44)), a delivery location (area after dispensers (44)) and a second storage location (reel (42)); a means (tape (38)) for carrying scent material (50); means (reels (40, 42)) for moving portions of the means for carrying scent material from the first storage location, to the receiving location, to the delivery location, and to the second storage location; means for transferring scent material (dispensing ports (44)) to the means for carrying scent material at the receiving location; and means for driving (blower fan (26)) at least some of the scent material off the means for carrying scent material and out of the housing at the delivery location (see figures 1-4; see entire document, specifically col. 3, line 29 to col. 4, line 46).

Regarding claim 19, Nardini discloses a means for transferring a plurality of scent materials (multiple dispensing ports (44)) (see figure 3; col. 3, lines 45-62).

Regarding claim 20, Nardini discloses a means for storing (scent reservoirs (42)) scent material operably connected to the means for transferring (ports (44)) scent material to the means for carrying scent material (38) (see figures; col. 3, lines 45-62).

6. Claims 21-23, and 25-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Takamori et al. (GB 2122903 A).

Regarding claim 21 and 25, Takamori et al. discloses scent material carrier device (porous tape (4) with a barrier layer (4a) connected to a roll shaft (2) and a take-up shaft (2')) for use in a scent delivery apparatus, the scent material carrier device comprising: a housing (1) including a housing outlet (7), a rotatable take-up reel (shaft (2')); and an elongate scent carrier strip (porous tape (4)), including a storage layer (4) and a barrier layer (4a), connected to the take-up reel (2') capable of rotating the take-up reel to cause the elongate scent carrier strip to be wound around the take-up reel with the storage layer facing the take-up reel and the barrier layer facing away from the take-up reel by adjusting the two dials (10, 10') (see figures 1-2; page 1, line 115 to page 2, line 64).

Regarding claim 22 and 26, Takamori et al. disclose that the storage layer (4) comprises a porous tape that is made from Kraft paper which is an absorbent material (see page 1, line 116 to page 2, line 10).

Regarding claims 23 and 27, Takamori et al. disclose the storage layer (4) is made from Kraft paper (see page 1, line 116 to page 2, line 10).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hempel as applied to claim 1 above, and further in view of Takamori et al. (GB 2122903 A).

Hempel discloses the claimed invention except for a housing having an outlet and containing the entire apparatus.

Takamori et al. discloses a similar fragrance vaporizer that is contained within a housing (1) having an outlet opening (7) for dispensing the fragrance (see figure 1; page 1, line 116 to page 2, line 12). The housing (1) facilitates portability of the apparatus so that it can be used in various locations such as a house, automobile, or a camping site (see page 1, lines 4-41).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Hempel and place the apparatus within a housing having a fragrance outlet as taught by Takamori et al. in order to provide a device that is portable and can be used to dispense a fragrance in various locations such as in a house, vehicle, or camp site.

8. Claims 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hempel in view of Takamori et al.

Regarding claim 18, Hempel discloses an apparatus for delivering scent material (odiferous substance (114)), comprising: a carrier (paper band (100)) that is movable from a scent material receiving location (location of feed system (16,18)) to a scent delivery location (opening (110) in side of duct (106)); a scent material transfer device (feed system (16, 18)), associated with the scent material receiving location, that transfers the scent material to the carrier (100); and a scent material dispersal device (heater (112) and fan (108)), associated with scent delivery location, that causes at least some of the scent material to be released from the carrier. Hempel further discloses that the apparatus comprises a supply reel (102), located upstream from the scent material transfer device (feed system (16, 18)), that stores unused portions of the elongate strip of carrier material (100); and a take-up reel (104), located downstream from the scent material dispersal device (heater (112)), that receives used portions of the elongate strip (100) of carrier material after the dispersal device has caused at least some the scent material to be released from the elongate strip of carrier material (see figures 42-43; col. 9, line 16 to col. 10, line 16; English abstract). Hempel fails to disclose a housing having an outlet and containing the entire apparatus.

Takamori et al. discloses a similar fragrance vaporizer that is contained within a housing (1) having an outlet opening (7) for dispensing the fragrance (see figure 1; page 1, line 116 to page 2, line 12). The housing (1) facilitates portability of the apparatus so

that it can be used in various locations such as a house, automobile, or a camping site (see page 1, lines 4-41).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Hempel and place the apparatus within a housing having a fragrance outlet as taught by Takamori et al. in order to provide a device that is portable and can be used to dispense a fragrance in various locations such as in a house, vehicle, or camp site.

Regarding claim 19, Hempel discloses a means for transferring a plurality of scent materials (feed system (16, 18)) onto a predetermined portion of the means for carrying the scent material (paper band (100)) (see figures 42-43; col. 9, line 16 to col. 10, line 16; English abstract).

Regarding claim 20, Hempel discloses a means for storing scent material (containers (12, 14)) operably connected to the means for transferring scent material (16, 18) to the means for carrying scent material (100) (see figures 42-43; col. 9, line 16 to col. 10, line 16; English abstract).

* Note: A machine translation from www.freetranslations.com has been relied upon for translation of portions of the reference to Hempel, DE 19513293 A1.

9. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nardini as applied to claim 4 above, and further in view of Morita et al. (U.S. Patent No. 4,735,358).

Nardini discloses the claimed invention except for a scent carrier including a storage layer on one side configured to store the scent material and a barrier layer on another side configured to substantially prevent passage of the scent material therethrough.

Morita et al. disclose an apparatus for vaporizing substances such as aromas comprising: a tape (1), supply reel (4), take-up reel (5), and a head (2) which may be a heater for dispensing the substance. The tape (1) comprises a base material with an active substance (such as a fragrance) that vaporizes at ambient temperature. The active substance will be lost during storage or in various stages of distribution if it is merely supported on the base material. Therefore, when the active is one that evaporizes at ambient temperature, it is preferable to protect it against vaporization by sealing the surface of the base material carrying the active substance by protective coating (barrier layer) or lamination (see figures 1, 6; col. 2, lines 45-66; col. 5, lines 46-56; col. 6, lines 30-60).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the tape (38) of Nardini and include a barrier layer next to the storage layer as taught by Morita et al. such that the barrier layer prevents vaporization of the scent at ambient temperature during storage and also prevents vaporization after the tape has been reeled up by the take-up reel. It would have been obvious to orient the scent carrier (tape (38)) of Nardini such that the scent storage layer faces the dispersal device and the barrier layer faces the outlet so that

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when the tape (38) is wound up by the take-up wheel (42) the scent is prevented from escaping from the tape as desired by Nardini (see col. 4, lines 3-8).

10. Claims 21, 22, 25, 26, 29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nardini in view of Morita et al. (U.S. Patent No. 4,735,358).

Regarding claims 21, 25, and 29, Nardini discloses an apparatus for delivering scent material (50), comprising: a housing (blower assembly (12) that pumps air) including a housing outlet (grate (16)); a carrier (absorbent cotton tape (38)) that is movable from a scent material receiving location (area near scent dispensing port (44)) to a scent delivery location (area located after the dispensing port (44)); a scent material transfer device (dispensing port (44)), associated with the scent material receiving location, that transfers the scent material to the carrier (tape (38)); and a scent material dispersal device (blower fan (26)), associated with scent delivery location, that causes at least some of the scent material to be released from the carrier (tape (38)) (see figures 1-4; see entire document, specifically col. 3, line 29 to col. 4, line 10).

Nardini fails to teach a scent carrier including a storage layer on one side configured to store the scent material and a barrier layer on another side configured to substantially prevent passage of the scent material therethrough.

Morita et al. disclose an apparatus for vaporizing substances such as aromas comprising: a tape (1), supply reel (4), take-up reel (5), and a head (2) which may be a heater for dispensing the substance. The tape (1) comprises a base material with an active substance (such as a fragrance) that vaporizes at ambient temperature. The

active substance will be lost during storage or in various stages of distribution if it is merely supported on the base material. Therefore, when the active is one that evaporizes at ambient temperature, it is preferable to protect it against vaporization by sealing the surface of the base material carrying the active substance by protective coating (barrier layer) or lamination (see figures 1, 6; col. 2, lines 45-66; col. 5, lines 46-56; col. 6, lines 30-60).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the tape (38) of Nardini and include a barrier layer next to the storage layer as taught by Morita et al. such that the barrier layer prevents vaporization of the scent at ambient temperature during storage and also prevents vaporization after the tape has been reeled up by the take-up reel. It would have been obvious to orient the scent carrier (tape (38)) of Nardini such that the scent storage layer faces the dispersal device and the barrier layer faces the outlet so that when the tape (38) is wound up by the take-up wheel (42) the scent is prevented from escaping from the tape as desired by Nardini (see col. 4, lines 3-8).

Regarding claims 22 and 26, Nardini discloses that the carrier (38) is made from absorbent cotton (see col. 3, lines 45-50).

Regarding claim 30, Nardini discloses that the carrier comprises an elongate strip of carrier material (absorbent cotton that forms tape (38)), the apparatus further comprising: a supply reel (40), located upstream from the scent material transfer device, that stores unused portions of the elongate strip of carrier material (38); and a take-up reel (42), located downstream from the scent material dispersal device (blower fan

(26)), that receives used portions of the elongate strip of carrier material after the dispersal device has caused at least some the scent material to be released from the elongate strip of carrier material (see figures 1-4; see col. 3, line 30 to col. 4, line 10).

11. Claims 24 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nardini in view of Morita et al. as applied to claim 21 and 25 above, and further in view of Spector (U.S. Patent No. 4,824,707).

Nardini in view of Morita et al. is silent with regards to specific materials for the barrier layer that prevents vaporization of the active substance in ambient temperatures, therefore, it would have been necessary and thus obvious to look to the prior art for conventional materials. Spector provides this conventional teaching showing that it is known in the art to use a plastic film (Mylar) as a barrier layer to prevent vaporization of a liquid substance (see col. 3, lines 37-56; col. 2, line 65 to col. 3, line 3). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the barrier layer from a plastic film motivated by the expectation of successfully practicing the invention of Nardini in view of Morita et al.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sean E. Conley whose telephone number is 571-272-8414. The examiner can normally be reached on M-F 8:30-5:00.

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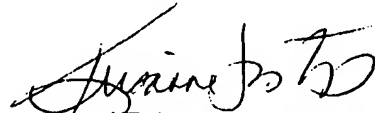
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran can be reached on 571-272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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November 7, 2006


KRISANNE JASTRZAB
PRIMARY EXAMINER